

**HUMAN SERVICES DEPARTMENT[441]****Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code section 234.6, the Department of Human Services amends Chapter 156, "Payments for Foster Care," Chapter 187, "Aftercare Services and Supports," and Chapter 201, "Subsidized Adoptions," Iowa Administrative Code.

These amendments reduce the reimbursement rate for foster family care and adoption and guardianship subsidies to achieve the savings required by Executive Order Number 19, which mandated a 10 percent across-the-board cut in state expenditures. Specifically, these amendments:

- Implement a 5 percent reduction in the basic reimbursement rate and the additional payments for special behavioral needs for foster family care provided from January 1, 2010, to June 30, 2010. Since the maximum maintenance payments for adoption and guardianship subsidies are based on the foster family care payment rates, these payments will also be reduced.
- Implement a 5 percent reduction in the clothing allowance payments for children in foster care.
- Substitute a specific reimbursement amount for the maximum maintenance payment in the supervised apartment living program and maximum stipend payment in the preparation for adult living (PAL) program. Currently, these rates are based on the foster family care payment rates, but reduction in these rates is not part of the Department's approved spending reduction plan.
- Limit payment for nonrecurring adoption expenses and, by reference, guardianship expenses. A maximum of \$500 will be reimbursed for attorney fees, court costs, and other related legal expenses.
- Suspend payment of special services payments negotiated as part of an adoption subsidy agreement between January 1, 2010, and June 30, 2010. Special services may be included in the agreement with the understanding that no payments will be made during this fiscal year. The suspension precludes the need to renegotiate the subsidy agreement if funds become available for special services in the future. Special services provisions in agreements that are already in effect on January 1, 2010, will not be affected.

These amendments do not provide for waivers in specified situations. Needed savings will not be realized if waivers are granted. Requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

The Council on Human Services adopted these amendments on December 9, 2009.

The Department finds that notice and public participation are impracticable and contrary to the public interest. The Department is statutorily and constitutionally required to reduce spending obligations to the level of constitutionally authorized appropriations. Deeper cuts would be required if the Department were to delay taking action to allow for notice and public participation. Therefore, these amendments are filed pursuant to Iowa Code section 17A.4(3).

The Department also finds, pursuant to Iowa Code section 17A.5(2)"b"(2) and (3), that avoidance of deficit spending confers a public benefit and that the immediate efficacy of these amendments is necessary because of the presently existing constitutional peril to the public welfare caused by spending obligations which exceed available revenues. Therefore, the normal effective date of these amendments is waived.

These amendments are also published herein under Notice of Intended Action as **ARC 8452B** to allow for public comment.

These amendments are intended to implement Iowa Code sections 234.35, 234.38, 234.46, and 600.17 to 600.23 and Executive Order Number 19.

These amendments became effective January 1, 2010.

The following amendments are adopted.

ITEM 1. Amend subrule 156.6(1) as follows:

**156.6(1) Basic rate.** A monthly payment for care in a foster family home licensed in Iowa shall be made to the foster family based on the following schedule effective January 1, 2010, to June 30, 2010:

<u>Age of child</u>	<u>Daily rate</u>
0 through 5	<del>\$16.36</del> <u>\$15.54</u>
6 through 11	<del>\$17.04</del> <u>\$16.16</u>
12 through 15	<del>\$18.62</del> <u>\$17.69</u>
16 or over	<del>\$18.87</del> <u>\$17.93</u>

ITEM 2. Amend subparagraph **156.6(4)“f”(1)** as follows:

(1) Additional maintenance payments made under this paragraph shall begin no earlier than the first day of the month following the month in which Form 470-4401 is completed and shall be awarded as follows:

1. Behavioral needs rated at level 1 qualify for a payment of ~~\$5~~ \$4.75 per day.
2. Behavioral needs rated at level 2 qualify for a payment of ~~\$10~~ \$9.50 per day.
3. Behavioral needs rated at level 3 qualify for a payment of ~~\$15~~ \$14.25 per day.

ITEM 3. Amend subrule 156.8(1) as follows:

**156.8(1) *Clothing allowance.*** When, in the judgment of the worker, clothing is needed at the time the child is removed from the child’s home and placed in foster care, an allowance may be authorized, not to exceed ~~\$250~~ \$237.50, to purchase clothing.

a. Once during each calendar year that the child remains in foster care, the department worker may authorize another clothing allowance, not to exceed ~~\$200~~ \$190 for family foster care and \$100 for all other levels, when:

- (1) and (2) No change.
- b. No change.

ITEM 4. Amend subrule 156.12(1) as follows:

**156.12(1) *Maintenance.*** When a youth at least aged 16 but under the age of 20 is living in a supervised apartment living situation, the maximum monthly maintenance payment for the youth shall be ~~made pursuant to the basic daily maintenance rate for a child aged 16 and over in subrule 156.6(1) \$573.90. The maximum monthly payment shall be computed by multiplying the daily rate in subrule 156.6(1) by 365 and dividing by 12.~~ This payment may be paid to the youth or another payee, other than a department employee, for the youth’s care.

ITEM 5. Amend subrule 187.12(2) as follows:

**187.12(2) *Amount of monthly stipend.*** The maximum monthly stipend shall be ~~based on the foster family basic daily maintenance rate for a child aged 16 or older \$574. The maximum monthly stipend shall be calculated by multiplying the daily rate in 441—subrule 156.6(1) by 365 and dividing by 12.~~

a. and b. No change.

ITEM 6. Amend paragraph **201.6(1)“a”** as follows:

a. Reimbursement to the adoptive family or direct payment made to a provider is ~~limited to the following~~ suspended from January 1, 2010, to June 30, 2010, for any special services: negotiated in that period except for nonrecurring expenses as defined in subparagraph (7).

(1) to (6) No change.

(7) Nonrecurring expenses. Payment for nonrecurring expenses is ~~generally~~ limited to a total of \$500 per child. An additional \$200 may be allowed for reasonable attorney fees, court costs and other related legal expenses. Nonrecurring expenses may be paid when the adoptive family has negotiated an Adoption Subsidy Agreement, Form 470-0747, or an Agreement to Future Adoption Subsidy, Form 470-0762.

(8) No change.

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EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 1/13/10.